

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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THE LEGAL AID SOCIETY,

Plaintiff,

-v-

UNITED STATES DEPARTMENT OF HOUSING AND :
URBAN DEVELOPMENT, :

Defendant. :
-----X

20-cv-2283 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, in which Plaintiff seeks to compel the United States Department of Housing and Urban Development (“HUD”) to respond to its request and disclose records relating to HUD’s Proposed Rule, *Housing and Community Development Act of 1980; Verification of Eligible Status*, 84 Fed. Reg. 20,589 (May 10, 2019) (to be codified at 24 C.F.R. pt. 5) (the “Proposed Rule”). The Proposed Rule would exclude so-called “mixed status households” from receiving federal rental assistance. Mixed status households are families with (i) eligible U.S. citizens or members with eligible immigration status and (ii) members without such status. The Complaint alleges that the Proposed Rule was scheduled to be finalized and go into effect in May 2020. (Dkt. No. 1 ¶ 7.)

On March 24, 2020, the Court convened an initial telephonic conference at which it assessed the progress of document production and inquired into the status of the Proposed Rule. The status of the Proposed Rule was relevant to Plaintiff’s request that documents be produced within 30 days from the date of the Complaint. At that conference, HUD agreed to deem service accepted as of March 24, 2020. The Court set a second status conference for today.

At today’s conference, counsel for HUD represented that the Proposed Rule will not go into effect in May 2020 as alleged and further represented that the Proposed Rule would not go into effect until at least July and, “more realistically,” not until September 2020. That relieved some (but by no means all) of the pressure with respect to immediate production. Plaintiff still has requested that production be complete by at least three weeks prior to the implementation of the Proposed Rule. Counsel for HUD stated that a motion to dismiss is being considered but that the Government will continue reviewing and processing documents during that consideration.

IT IS HEREBY ORDERED that a telephonic status conference is SET for May 6, 2020 at 4:00 p.m. The parties are directed to call (888) 251-2909 and use access code 2123101. In advance of that conference, the parties are ORDERED to meet and confer with respect to (1) a briefing schedule for any motion to dismiss; and (2) to the extent any categories of document

production will not be the subject of a motion to dismiss or the Government will not make a motion to dismiss, a schedule for production of those categories of documents.

SO ORDERED.

Dated: April 8, 2020
New York, New York

A handwritten signature in black ink, appearing to read 'L. Liman', is written above a horizontal line.

LEWIS J. LIMAN
United States District Judge